

United States District Court

for the
Western District of New York

United States of America

v.

Case No. 25-MJ- 4049

Jhonser Rafael Coste-Morales

Defendant

CRIMINAL COMPLAINT


I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about April 14, 2025, in the Western District of New York, the defendant, **JHONSER RAFAEL COSTE-MORALES**, a citizen and national of the Dominican Republic, who had previously been denied admission, excluded, deported, and removed from the United States, on or about October 17, 2023, was found in the United States of America, without having obtained the express consent of the Attorney General of the United States or his successor, the Secretary for Homeland Security, to reapply for admission to the United States, subsequent to an aggravated felony conviction for Manufacture, Delivery, or Possession with Intent to Manufacture or Deliver a Controlled Substance.

In violation of Title 8, United States Code, Section 1326(a) and (b)(2).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.


Complainant's Signature
Border Patrol Agent Justen J. Silva
Printed name and title

Affidavit submitted by email/pdf and attested to me as true and accurate by telephone consistent with Fed.R.Crim. P. 4.1 and 4(d) before me this 21st day of April, 2025.

Date: April 21, 2025


Judge's signature

City and State: Rochester, New York

Hon. Colleen D. Holland, U.S. Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF MONROE) ss.:
CITY OF ROCHESTER)

Justen J. Silva, being duly sworn, deposes and says that:

1. I am a Border Patrol Agent with the United States Border Patrol in Rochester, New York. I have been employed with the United States Border Patrol for over five years.

2. As part of my duties during my employment with the United States Border Patrol, I have investigated violations of the Immigration and Nationality Act and violations of the United States Code, particularly Title 8, United States Code, Section 1326(b)(2) (Re-entry of Removed Aliens).

3. The information contained in this affidavit is based upon my personal knowledge and observations, my training and experience, conversations with other law enforcement officers and witnesses, and my review of documents, reports, and records gathered through the investigation of this case.

4. I make this affidavit in support of the annexed criminal complaint charging JHONSER RAFAEL COSTE-MORALES with violating Title 8, United States Code, Section 1326(b)(2) (Re-entry of Removed Alien).

5. Since this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to demonstrate that Title 8, United States Code, Section 1326(b)(2) has been violated.

PROBABLE CAUSE

6. On or about May 26, 2024, Buffalo Sector Radio Communications contacted the Rochester Border Patrol ("BP") Station and relayed a request for assistance from a New York State Trooper in Painted Post, New York. The Trooper requested assistance verifying foreign documents provided by two subjects who were apprehended and charged with possession of fentanyl. Record checks on the two individuals revealed that one individual, identified as JHONSER RAFAEL COSTE-MORALES, is a citizen and national of the Dominican Republic and had been previously deported from the United States subsequent to receiving an aggravated felony conviction. The BP Agents were notified that COSTE-MORALES was going to be prosecuted for this offense, and filed an immigration detainer with the Steuben County Jail.

7. On April 14, 2025, at approximately 3:30 p.m., Rochester Border Patrol Agents received a call from the Steuben County Jail regarding the immigration detainer placed on COSTE-MORALES indicating that he would be imminently released.

8. At approximately 4:50 p.m., Supervisory BP Agent ("SBPA") Julio Holguin arrived at the Steuben County Jail in Bath, New York. SBPA Holguin confirmed the identity of COSTE-MORALES through questioning and placed him under arrest. COSTE-MORALES was subsequently transported to the Rochester BP Station for further investigation and record checks.

9. While at the Border Patrol Station, COSTE-MORALES' fingerprints were taken to further confirm his identity. Record checks associated with his fingerprints showed that he was a citizen and national of the Dominican Republic with felony criminal convictions and a previous deportation from the United States.

10. A query of immigration and criminal databases contained in the Alien Registration file ("A-file") for COSTE-MORALES revealed the following facts:


- a. COSTE-MORALES is a citizen of the Dominican Republic.
- b. COSTE-MORALES legally entered the United States on April 27, 2013, and became a Lawfully Admitted Permanent Resident on August 21, 2017.
- c. On April 11, 2022, COSTE-MORALES was convicted of "Manufacture, Delivery, or Possession with Intent to Manufacture or Deliver a Controlled Substance," a felony, in Montour County, Pennsylvania.
- d. On September 25, 2023, an Immigration Judge entered a final order of Removal on COSTE-MORALES, removing his status as a Lawfully Admitted Permanent Resident. COSTE-MORALES was deported back to the Dominican Republic on October 17, 2023.
- e. On April 14, 2025, COSTE-MORALES was convicted of "Criminal Possession of a Controlled Substance – 2nd Degree," a felony, in Steuben County, New York.

11. There is no evidence that COSTE-MORALES received any authorization or approval from either the Attorney General of the United States or the Secretary of the Department of Homeland Security to re-enter the United States after his last removal.

CONCLUSION

12. Wherefore, it is respectfully submitted that probable cause exists to believe that COSTE-MORALES did commit the offense of unlawful re-entry after deportation or removal, subsequent to a felony conviction, in violation of 8 U.S.C. § 1326(b)(2), in that he, a citizen and national of the Dominican Republic, having been issued an Order of Removal from the United States to the Dominican Republic on September 25, 2023, and physically removed from the United States to the Dominican Republic on or about October 17, 2023, was thereafter unlawfully found in the United States on April 14, 2025, without first having

obtained the consent of the Attorney General, or his successor, the Secretary of the Department of Homeland Security.



Justen J. Silva
Border Patrol Agent
United States Border Patrol

Affidavit submitted electronically by email in .pdf format. Oath administered and contents and signature attested to me as true and accurate telephonically pursuant to Fed. R. Crim. P. 4.1 and 4(d) on this 21st day of April, 2025.



HON. COLLEEN D. HOLLAND
UNITED STATES MAGISTRATE JUDGE